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Attorneys for Plaintiff
JOSEPH MARKETTE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF THE UNITED STATES

JOSEPH MARKETTE,
Plaintiff,

v.

WAL-MART STORES, INC., SUHARD
MEHTA; and DOES 2-25, inclusive
Defendants.

) Case No. C 05-02173 MJJ

)
)
) **STIPULATION AND [REDACTED]**
) **ORDER FOR CONTINUANCE OF**
) **TRIAL**

) Current Trial Date: January 16, 2007
)
)

TO THE COURT AND ALL PARTIES:

Plaintiff JOSEPH MARKETTE and Defendants WAL-MART STORES, INC. and
SUHARD MEHTA, by and through their respective attorneys of record, herein agree and
stipulate to a continuance of the trial date from January 16, 2007, to June 25, 2007. Good cause
exists for the continuance as described below.

1 1. This case involves complicated and novel questions of law and fact regarding an
2 alleged denial of access to plaintiff of the electric shopping carts at a Wal-Mart store in Union
3 City, California. Before meaningful settlement discussions could begin, the parties needed to
4 exchange information. Accordingly, the parties scheduled discovery cooperatively, including
5 each party taking several depositions of opposing parties and witnesses.

6 2. On February 21, 2006, a Case Management Conference was held with Judge
7 Jenkins, and trial and pre-trial dates were set. However, Judge Jenkins indicated that these
8 dates were not “set in stone” and that the parties could stipulate and request that they be
9 changed if they were not convenient. The Court further referred the parties to Chief Magistrate
10 Judge James Larson for settlement proceedings.

11 3. On August 29, 2006, the earliest date available for Judge Larson and all parties,
12 a settlement conference was held with Judge Larson. While significant progress was made
13 toward settlement, including an agreement in principle on injunctive relief, the parties were
14 unable to reach full settlement of the matter. However, at Judge Larson’s urging, the parties
15 agreed to withhold discovery or further litigation work in order to avoid increasing the
16 attorney’s fees in the matter, which would make settlement of the case much less likely. Judge
17 Larson indicated that he was amenable to continuing to work with the parties toward
18 settlement, and all parties and Judge Larson agreed to set a further settlement conference.

19 4. The parties attempted to schedule a settlement conference with Magistrate Judge
20 James Larson for either November or December 2006, the first dates available on his calendar.
21 However, due to conflicts in schedules (including the fact that the holiday season is the busiest
22 time of the year for Wal-Mart, making it difficult to free up a representative for settlement
23 discussions), the parties were unable to set a date before the year’s end. Judge Larson is
24 unavailable for a settlement conference in January 2007, making the earliest possible settlement
25 conference date February 2007.

26 5. The parties believe that the case has a good chance of settling if the parties are
27 able to avoid further litigation work; however, if the parties are forced to begin the extensive
28

pre-trial preparation that would be necessary under the current trial date, the fees and costs would quickly spiral out of control, making settlement impossible.

6. Thus, a continuance of the pre-trial conference and trial would provide the parties an opportunity to engage in settlement discussions and possibly avoid unnecessary use of the Court's time, and avoid unnecessary increases in attorney's fees and costs.

Therefore, IT IS HEREBY STIPULATED by and between the parties through their attorneys of record that the trial date be continued to June 25, 2007. The pre-trial conference date would accordingly be rescheduled for June 18, 2007.

IT IS FURTHER STIPULATED by and between the parties that (1) all non-expert discovery in this matter is closed and (2) all deadlines relating to FRCP 26 disclosures of experts and expert reports will also be extended with the new trial date such that initial expert disclosures would occur on April 27, 2007, expert reports would be due on or before May 4, 2007, supplemental experts would be disclosed by May 11 and expert discovery would need to be completed by May 25, 2007.

Dated: December 5, 2006

PHILLIPS, SPALLAS & ANGSTADT LLP

By: /s/ Gregory L. Spallas
 Gregory L. Spallas
 Kristi A. Nguyen
 Attorneys for Defendants
 WAL-MART STORES, INC. and
 SUHARD MEHTA

Dated: December 5, 2006


LAW OFFICES OF PAUL L. REIN

By: /s/ Julie McLean
 Paul L. Rein
 Patricia Barbosa
 Julie McLean
 Attorneys for Plaintiff
 JOSEPH MARKETTE

ORDER

Pursuant to Stipulation, and for good cause shown, IT IS HEREBY ORDERED¹² that the trial be continued to June 25, 2007, with a pre-trial conference of June 12, 2007 and that the deadline for completion of factual discovery is closed, and that all deadlines relating to FRCP 26 disclosures of experts and expert reports will also be extended with the new trial date such that initial expert disclosures would occur on April 27, 2007, expert reports would be due on or before May 4, 2007, supplemental experts would be disclosed by May 11 and expert discovery would need to be completed by May 25, 2007.

Dated: 12/6/2006



Honorable Martin J. Jenkins
U.S. District Court Judge